

**RUMSON PLANNING BOARD
REGULAR MEETING
FEBRUARY 5, 2007
MINUTES**

Chairman Parton called the meeting to order at 7:30 p.m. with the Pledge of Allegiance. The requirements of the Open Public Meetings Act were stated as met. The roll was called, with the following members present: Parton, Rubin, Casazza, Hewitt, York, Ekdahl, White, Lospinuso, Shanley (arr. 9:00 p.m.). Also present: Bernard Blum (T&M Assoc.), Bonnie Heard (T&M Assoc.), Michael Steib (Board Attorney), Fred Andre (Zoning Officer), Karen St. George (State Shorthand).

Chairman Parton announced that the application of Arthur Parent will be delayed until the arrival of Mr. Shanley.

Approval of Minutes

Councilman Rubin moved to adopt the minutes from the January meeting, and Mr. Hewitt seconded. Voice Vote: Ayes, unanimous.

Rumson Country Club, 163 Rumson Road, Minor Site Plan for Trap Shooting Shed

Members Ekdahl and White will not sit in on this application, due to a possible conflict of interest. Mr. Steib stated that the service was in order, and the Board has jurisdiction.

Ms. Heard listed several items that require waivers:

- Key map showing residences within 200’;
- Proof of taxes (now noted as current);
- Completeness waivers (information for which has now been provided);
- Deeds and easements have been provided;
- Location of streams, etc., have been provided;
- Site triangle – This was a condition of a prior application, which does not fall within the applicants property and should be waived;
- Parking plan – no improvements are necessary;
- Solid waste plan – waiver recommended so that testimony can be heard;
- Layout showing lot shape, sidewalks, etc.;
- Grading plan;
- Landscaping and soil erosion plan;
- List of permits (has now been provided);
- Performance guarantees;
- Utilities (all are existing).

Councilman Rubin moved to grant the waivers requested, and Mr. Casazza seconded.

Roll Call Vote: Ayes – Parton, Rubin, York, Hewitt, Casazza, Lospinuso

Nays – None

Motion carried.

Mr. Steib noted the exhibits provided:

- A-1 – Site Plan
- A-2 – Letter of intent from the Monmouth County Planning Board
- A-3 – Minor site plan
- A-4 – Architectural elevations and floor plan
- A-5 – Report from Mr. Blum

- A-6 – Updated report from Mr. Blum dated 1/24/07.

Jeremy Lange, project engineer, was sworn in and provided his credentials for the Board, and they were accepted. He noted their exhibit A-3, showing the site plan, calling the Board's attention to the center portion of the site plan, which shows an overall picture of the site. The facility is shown in the middle of the plan on the Shrewsbury River side. They propose only electrical service to the proposed structure, with no plumbing facilities. They have approximately 210 acres in the R-1 Zone. This is a permitted use, and this accessory structure should also be considered a permitted use. They are within the permitted lot coverage, floor area, and all bulk requirements. There was a question regarding refuse, and this will be handled in the same way as normally handled for the site. There are 127 parking spaces provided within the club house, and the accessory structure will not increase the parking demand. A proposed fence around the shooting area will be expanded around the parking area as a safety issue. The fence is not visible from any residential properties, and is well within the 210 acre property, surrounded by existing berms and additional fences around the complex.

Landscaping, lighting, and buffer requirements were addressed:

- Proposed construction would not be visible from surrounding properties;
- No shooting would occur at night and no lighting would be required;
- The landscaping of the overall property would be sufficient to buffer this use.

It is Mr. Lange's opinion that no detriment to the public good would be felt with this plan. The elevation of the first floor would be within the flood plain elevation, proposed on concrete piers, but not elevated high enough to be out of the flood plain.

The proposed fence would partition the shooting range from the parking area. There are no plans to change the fence along Rumson Road. No additional lighting would be provided. There would be no increase in the amount of shooting on the site.

Mr. Casazza asked about the flood requirements, and Mr. Lange stated any requirements would be in accordance with the building codes.

There were no questions or comments from the public. The required variances were mentioned:

- Parking – The structure would not add to the typical parking demand, but would require an additional variance;

- Fence – They have an existing 8’ fence, and they would be adding an additional 90’ to this existing fence for safety reasons. No one would be adversely affected by this structure;
- Design waiver for flood plan, landscaping, lighting, and buffer – They would only be utilizing a residential-type light fixture on the door; landscaping will be provided; and no buffer would be required.

Councilman Rubin and Dr. Lospinuso think it is a reasonable application and stated they would be in favor of it. With no further discussion occurring, Dr. Lospinuso moved to approve the application, and Mr. Casazza seconded.

Roll Call Vote: Ayes – Parton, Rubin, York, Hewitt, Casazza, Lospinuso

Nays – None

Motion carried.

Mrs. White and Mayor Ekdahl rejoined the meeting at this time.

COAH Approval

Mr. Steib reviewed that the court decided that the appeal of the COAH approval has not been accepted as yet. He thinks a significant amount of rethinking will occur on this issue. Mr. Blum commented that he did not know how this would affect Rumson at this time. If new rules are the outcome, new plans will need to be submitted. Ms. Heard noted that the borough is in the process of updating the ordinance. Meetings have been scheduled to address inconsistencies. She will report again next month on this issue.

At this time, 8:05 p.m., the Board moved into executive session. At the end of the session, 8:15 pm., the Board moved back into the regular session.

Arthur Parent Subdivision

Chairman Parton announced that this is not a new application or an opportunity to change any conditions involved with the original application, but only a reconsideration of the original subdivision application. Five eligible members are present to hear the application – Parton, Rubin, Ekdahl, Lospinuso, and White. Chairman Parton asked any members of the public not represented by attorneys to please be succinct and stick to the points, as the Board is well aware of the historic significance of this property. She noted that the meeting will adjourn at 10:30 p.m. The Board will determine whether or not conditions of approval should be removed to allow the subdivision to stand.

Mr. Steib reviewed the remand from the Superior Court from 12/1/06, which noted that the Parents cannot fulfill the special conditions of the application. The court remanded the matter to the Planning Board for consideration of the resolution of the granting of the minor subdivision approval, and the resolution is to be reconsidered at this time. A hearing notice was sent out for last month’s meeting and carried to this month by authorization of the Parents' and the Rumson Heritage Preservation Committee.

Dean Gavor, attorney, appeared on behalf the applicants. He reviewed the history of the application, noting the number of changes that occurred along the way:

- The property could be divided into three lots, meeting all requirements of the borough;
- Concerns regarding the Tredwell House caused the applicant to agree to changes to the property;
- The Board approved a revised subdivision, and during the course of the appeal, a fire destroyed the house.

Mr. Gavor believes there are good and sound planning reasons to continue the approval of this application. He reviewed the historical issues, noting that it must be deemed an historical site – which is a structure or place which is identified in the master plan as having historic significance. In the Rumson Master Plan, the only reference to this site is concerning the building, which no longer exists. Mr. Gavor thinks they could divide the property into three lots and meet all requirements. Because of the existing stream, they would need four long driveways and three stream crossings, in order to serve the property. The proposed subdivision has one driveway and one stream crossing, thereby avoiding the disturbances and reducing impervious surfaces.

They have conducted two archeological surveys on this property, and they are prepared to turn these over to the appropriate parties. There also was a question as to a gardener's cottage on the site, which is of a much more recent heritage, and they would offer this structure to any party that would agree to come and remove it, although they have had no takers to this offer to this date.

Mr. Gavor believes there are good and sufficient reasons to grant their variance requests. The Board found last time that what was proposed had no negative impact on the surrounding community.

Councilman Rubin asked about the condition regarding a dig around the perimeter, and Mr. Gavor stated that the condition was that if any construction occurred within 10' of the existing foundation, an historical architect would be brought in to observe and collect evidence. Councilman Rubin disagrees with Mr. Gavor's explanation of this requirement. He asked if they are willing to meet the archeological requirements for this site, as cited on Page 24 of the resolution. Mr. Gavor stated he feels that this refers to the structure, which no longer exists. Councilman Rubin thinks this still refers to the existing foundation; however, Mr. Gavor stated that the foundation would no longer exist and would be filled in. Any construction activities in connection with the structure, as the condition reads, they would be willing to comply with.

Mayor Ekdahl asked if they proposed to leave the outline of the basement open, or would they be filling it in. It was noted that it has already been filled in.

David Hoder, civil engineer, was sworn in, and the Board accepted his qualifications. He has revised the proposed subdivision, and has also investigated the proposed variances.

He is familiar with both the previous and current applications. It would be his opinion, as a professional planner, that the proposed application is an unusual lot that has a stream down the center. They did many different subdivision proposals over the years. He thinks the current plan is the best for the property. It would provide three conforming lots as to frontage, etc., except for the moving of the small gardener's cottage. They would provide a single driveway, serving two lots, and a much smaller driveway for the other lot, providing much less disturbance on the property. They are providing a better situation for the wetlands and the flood plane on the property in conjunction with the stream. It would provide less impervious coverage and less disturbance but still provide lots that are much undersized for the zone.

Michelle Donato, attorney representing the Tredwell Preservation Commission, questioned Mr. Hoder regarding his knowledge of the application and the resolution adopted in 2005. Mr. Hoder cited from the resolution about conditions regarding the house on the property. Ms. Donato questioned Mr. Hoder regarding the findings regarding the preservation of historic sites and the character of Rumson. Mr. Gavor objected to the questioning; however, Mr. Steib feels the questioning is appropriate. Mr. Gavor feels they should ask about the evidence relevant to this testimony.

Ms. Donato continued her questioning of Mr. Hoder regarding the finding of the Board and the historical significance of the Tredwell House. She referred to the 1988 Master Plan, and Mr. Hoder stated he is aware of this site as noted in that plan. He stated that the site is just outside of the "Black point" site. He is familiar with the development regulations of the borough of Rumson. Ms. Donato feels the site has an important archeological significance, and she does not want the record to state that they believe that the issue of the archeological significance should be downplayed in this case. She feels the Master Plan says that archeological sites are important to the borough, and the purpose of the Master Plan is to restore these sites. The ordinance indicates that part of good design is to preserve areas of historic significance. Mr. Hoder stated he believes the Board took that into their consideration. If any construction occurred within 10' of the former original foundation of the house, then an archeological service would be required. They agreed to do this, per the approval resolution.

Regarding the archeological conditions on Page 24 of the resolution, Mr. Hoder stated he believed that the applicant would engage an expert to do an archeological dig within the 10' of the house, if this area were disturbed.

Mr. Shanley arrived at this time (9:00 p.m.)

It was noted that the basement of the old house was filled in, and it was not necessary to disturb this area in the future. Leaving the foundation would be the best thing for the next generation, in his opinion.

Any excavation within 10' of the original foundation would mean that the applicant would comply with the condition for an archeological dig.

Rick Knielser, 16 Navesink Ave., asked about the original four-lot subdivision. He asked Mr. Hoder if he was trained as a planner, and Mr. Hoder stated he does not have a planning degree, but has his planner's license and has been using it for some time.

Roberta Vananda, Woods End Road, asked if anyone will be present to see what they come up with when the proposed foundations are dug. Chairman Parton stated this was not a part of the original Planning Board approval.

Mr. Hoder noted it is their intent to allow for an archeological study to occur within 10' of the old house for any work that occurs within this distance. Any artifacts found would be saved and coded. If no excavation occurs within the area, no dig would occur, in conformance with the old resolution. The 10' distance would apply to any disturbance of the property. Grading could occur; however, any excavation would require an archeologist to be present.

Ms. Donato again questioned Mr. Hoder regarding excavation within the 10' area, and Mr. Hoder stated that in the present case, there is a small area that may need to be excavated with this area, and should this occur, an archeological dig would be required.

Mr. Steib reviewed that the court sent this case back to this Board to determine preservation of the property, since the house has now been destroyed. The Board is not looking into the subdivision, but focusing on one issue – does the decision stay or not, because the house no longer exists.

Ms. Donato thinks the Board should reconsider the matter and take into consideration the archeological significance of the site, even though the house no longer exists.

Mr. Arthur Parent, 20 Alston Court, Red Bank, was sworn in and testified that he had the privilege of serving on the Zoning and Planning Boards in Rumson for over 20 years. He knows the seriousness of their deliberations tonight. He would like to remind them of the history of this application, noting that their initial application to the Planning Board was to raze the house, since it was not worth saving. The Planning Board asked them to reconsider and try to save the house. There was no legal requirement for them to do this, but they complied, spending seven years with this application. He does not want to continue this for the next seven years. They have already done two archeological digs, and have agreed to preserve the gardener's cottage. They agreed to acknowledge the historical significance of the house with a plaque. The Board noted that the amount of money spent to this date was not relevant to their decision.

Ms. Donato asked Mr. Parent about the two archeological studies done on the site – Phase I and Phase II – which were not shared with the borough. These studies showed that there were artifacts found. She also questioned Mr. Parent regarding the Master Plan and the question of whether the house was located within the “Blackpoint” site. Mr. Parent stated that the studies found artifacts, such as arrowheads, shards, pottery, etc. No tools were found. The digs were conducted by a consulting group. The studies

were not provided to any government agency, as they were conducted on private property, according to Mr. Parent. Wetlands permits were received, but archeological studies were not required.

Ms. Donato called Mary Lou Strong, 946 Navesink River Road, Locust, as a witness. She testified that she visited the Tredwell house when it was owned by its former owner. She observed several items of architectural interest that washed out from the basement of the house. Ms. Donato feels this is relevant to show the archeological significance of the site.

Chairman Parton again noted that the Board is simply determining whether they will allow the conditions to exist from the prior approval. Ms. Donato disagrees, feeling that the court does not want the Board to look at this in a vacuum, but should try to protect the archeological significance of the site.

Chairman Parton again stated they are strictly reviewing the resolution they approved in 2005, and the Board understands their point about the archeological importance of the site. Councilman Rubin noted that they do not mean to minimize her position, and they do understand it.

Ms. Donato proceeded to present photos of archeological findings on the property. Mr. Gavor stated that the law is clear as to what constitutes an historic site, and the definition is included in the ordinance.

Mr. Steib advised Mr. Gavor that this Board has acknowledged that there is both historical and archeological significance to the site. This has never been an issue or challenge for them and has been testified to by Mr. Parent regarding his Phase I and Phase II digs. The substantial portion of the presentation is jurisdiction related to the fact that there would be preservation to this historic structure. He does not think the Board needs to consider the archeological significance position, because the Board already is aware of this.

Ms. Donato thinks it is important that the record reflect the archeological significant of the property, which is defined in the ordinance of the town. The Board feels they have already been over this many times, and it is already on the record. Ms. Donato thinks the Board has the authority to impose a condition that the applicant be required to provide additional archeological digs.

Chairman Parton stated that they are not considering a new application, but only considering the prior approval, in light of the destruction of the house. She strongly explained that the Board has already had significant testimony regarding the archeological significance of the property and does not need any further testimony on this issue.

Richard Veit, Professor of History and Anthology at Monmouth University and a registered professional archeologist, was sworn in. He stated he is familiar with the archeological significance of the site and has visited it in the past. Mr. Gavor objected to this testimony, and Chairman Parton acknowledged that these witnesses are well qualified; however, they are not appropriate to testify at this time.

Ms. Donato proceeded to ask Mr. Veit if it was his opinion that there would only be significance with the 10' distance around the original foundation of the house, or would it go beyond that. Mr. Veit stated he feels an archeological site would occur beyond the foundation around the original house. Ms. Donato stated they are trying to present important information, and Chairman Parton thanked her for her input.

Elizabeth Sorenson, 7 N. Ward Ave., questioned a letter regarding the boarding up of the house; however, Chairman Parton stated that was also not relevant to their consideration this evening.

Rick Kniesler, 16 Navesink Ave., spoke from the public, and, as a professional planner, stated his opinion that the Board has an opportunity to look at this lot and consider if this is the best design for the property. It is a significant piece of property, and he thinks there may be a better plan for the layout of the lots. He thinks the applicant should meet with the town to address historic trees, wetlands, building areas, etc.

Ms. Donato summarized her case, stating her opinion that the borough Master Plan identifies historic sites throughout the community, and there are two significant references to this property. This Board has recognized these in their previous approvals, along with the archeological significance of the property. They are being asked to consider if the previous approval remains viable in light of the destruction of the house. She thinks they are looking at this through a very narrow tunnel, instead of looking at whether there is archeological significance on the entire site, including common foundations on other portions of the site. Design guidelines exist giving them information as to how to approach the approval for this site. She thinks a terrible precedent would be set if the Board does not protect what remains on this site. She thinks many things are present on this site that need to be protected, and they are the ones that hold the key to protecting them. This can be done through the Master Plan, and they do not need the applicant's approval to achieve this. They ask the Board to say "No" to this proposal and require the applicant to come back with a plan that meets the ordinance and archeological standards. They ask the Board to acknowledge the long-standing recommendation of this site as having historical significance and require additional archeological digs.

Mr. Gavor summarized that the remanding of the matter to the Board from the court is unusual. The obligation of the Board is to look at what was approved and decide whether the conditions are no longer appropriate and if they still find the subdivision suitable. The proposed layout causes no detriment to the community or the neighborhood. The comments regarding the artifacts and historic nature of the site, as presented by Ms.

Donato, are true in that this Board may impose certain conditions regarding historic sites; however, the circumstances on how they can do it are very clear, and he proceeded to explain the conditions, which include a set of evaluations which occur after specific lands or buildings are identified. The Master Plan does not identify this property as being within the “Blackpoint” site, and these findings are clear in the Master Plan. The building no longer exists, as identified in the Master Plan. The concerns expressed by the objectors are no longer significant, and no conditions should be imposed that have no merit under the law, and he does not think these types of conditions have ever been imposed on anyone else in town before this. He thinks the planning reasons can justify their decision tonight. He noted that this has been going on for seven years, and he thinks the applicants have shown every effort to accommodate the requirements of the Board. He thinks the Board should extend the request of the subdivision.

Councilman Rubin asked Mr. Steib to read the decision of the Appellate Division that explained the appeal and the charge to the Board this evening, remanding their reconsideration of the subdivision approval.

The comments of the Board were heard at this time:

- Chairman Parton – The house no longer exists, and she does not think the variances should survive;
- Mrs. White – Agrees with Chairman Parton, and agrees with the former approvals, based on the fact that they are trying to preserve the house, which is now gone.
- Dr. Lospinuso – Acknowledged the historic significance of the property and the former structure; however, they are limited in the scope of their decision. He acknowledged the rights of Mr. Parent with his property, but he is uncomfortable about the presentation regarding the archeological surveys and asked Mr. Parent to consider some of the things set forth by the borough council in June, 2006. Overall, he also agrees with Chairman Parton’s comments;
- Councilman Rubin – Agrees that the conditions have changed and no longer fit the conditions for the variances granted. He would vote “No” on the issues;
- Mayor Ekdahl – Thinks the preservation of the Tredwell House was the concern with the original approval.

There being no further discussion, Chairman Parton moved to allow the subdivision to stand with variances originally granted and all conditions, except for the preservation of the Tredwell House. A “Yes” vote would allow the subdivision to continue with the variances granted, except for the preservation of the Tredwell House, and a “No” vote would mean it does not. Councilman Rubin seconded.

Roll Call Vote: Ayes – None

Nays - Parton, Rubin, Ekdahl, Lospinuso, White, Shanley

There being no further business, motion was made and seconded to adjourn. Voice Vote: Ayes, unanimous. The meeting was adjourned at 10:15 p.m.

The next meeting will be **March 5, 2007.**

Respectfully submitted,

Patricia Murphy